



General Assembly

January Session, 2013

Raised Bill No. 954

LCO No. 3129



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

AN ACT CONCERNING PAYMENTS MADE UNDER UNINSURED AND UNDERINSURED MOTORIST COVERAGE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-336 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) (1) Each automobile liability insurance policy shall provide
4 insurance, herein called uninsured and underinsured motorist
5 coverage, in accordance with the regulations adopted pursuant to
6 section 38a-334, with limits for bodily injury or death not less than
7 those specified in subsection (a) of section 14-112, for the protection of
8 persons insured thereunder who are legally entitled to recover
9 damages from owners or operators of uninsured motor vehicles and
10 underinsured motor vehicles and insured motor vehicles, the insurer
11 of which becomes insolvent prior to payment of such damages,
12 because of bodily injury, including death resulting therefrom. Each
13 insurer licensed to write automobile liability insurance in this state
14 shall provide uninsured and underinsured motorists coverage with
15 limits requested by any named insured upon payment of the

16 appropriate premium, provided each such insurer shall offer such
17 coverage with limits that are twice the limits of the bodily injury
18 coverage of the policy issued to the named insured. The insured's
19 selection of uninsured and underinsured motorist coverage shall apply
20 to all subsequent renewals of coverage and to all policies or
21 endorsements which extend, change, supersede or replace an existing
22 policy issued to the named insured, unless changed in writing by any
23 named insured. No insurer shall be required to provide uninsured and
24 underinsured motorist coverage to (A) a named insured or relatives
25 residing in his household when occupying, or struck as a pedestrian
26 by, an uninsured or underinsured motor vehicle or a motorcycle that is
27 owned by the named insured, or (B) any insured occupying an
28 uninsured or underinsured motor vehicle or motorcycle that is owned
29 by such insured.

30 (2) Notwithstanding any provision of this section, each automobile
31 liability insurance policy issued or renewed on and after January 1,
32 1994, shall provide uninsured and underinsured motorist coverage
33 with limits for bodily injury and death equal to those purchased to
34 protect against loss resulting from the liability imposed by law unless
35 any named insured requests in writing a lesser amount, but not less
36 than the limits specified in subsection (a) of section 14-112. Such
37 written request shall apply to all subsequent renewals of coverage and
38 to all policies or endorsements that extend, change, supersede or
39 replace an existing policy issued to the named insured, unless changed
40 in writing by any named insured. No such written request for a lesser
41 amount shall be effective unless any named insured has signed an
42 informed consent form that shall contain: (A) An explanation of
43 uninsured and underinsured motorist insurance approved by the
44 commissioner; (B) a list of uninsured and underinsured motorist
45 coverage options available from the insurer; and (C) the premium cost
46 for each of the coverage options available from the insurer. Such
47 informed consent form shall contain a heading in twelve-point type
48 and shall state: "WHEN YOU SIGN THIS FORM, YOU ARE

49 CHOOSING A REDUCED PREMIUM, BUT YOU ARE ALSO
50 CHOOSING NOT TO PURCHASE CERTAIN VALUABLE
51 COVERAGE WHICH PROTECTS YOU AND YOUR FAMILY. IF YOU
52 ARE UNCERTAIN ABOUT HOW THIS DECISION WILL AFFECT
53 YOU, YOU SHOULD GET ADVICE FROM YOUR INSURANCE
54 AGENT OR ANOTHER QUALIFIED ADVISER."

55 (b) An insurance company shall be obligated to make payment to its
56 insured up to the limits of the policy's uninsured and underinsured
57 motorist coverage after the limits of liability under all bodily injury
58 liability bonds or insurance policies applicable at the time of the
59 accident have been exhausted by payment of judgments or settlements,
60 but in no event shall the total amount of recovery from all policies,
61 including any amount recovered under the insured's uninsured and
62 underinsured motorist coverage, exceed the limits of the insured's
63 uninsured and underinsured motorist coverage. In no event shall there
64 be any reduction of uninsured or underinsured motorist coverage
65 limits or benefits payable (1) for amounts received by the insured for
66 Social Security disability benefits paid or payable pursuant to the
67 Social Security Act, 42 USC Section 301, et seq., or (2) for an automobile
68 liability insurance policy delivered, issued for delivery, renewed,
69 amended or endorsed on or after October 1, 2013, for amounts paid by
70 the insurance company to any other claimant other than the named
71 insured or for amounts paid by or on behalf of any tortfeasor for
72 property damage. The limitation on the total amount of recovery from
73 all policies shall not apply to underinsured motorist conversion
74 coverage purchased pursuant to section 38a-336a.

75 (c) Each automobile liability insurance policy issued on or after
76 October 1, 1971, which contains a provision for binding arbitration
77 shall include a provision for final determination of insurance coverage
78 in such arbitration proceeding. With respect to any claim submitted to
79 arbitration on or after October 1, 1983, the arbitration proceeding shall
80 be conducted by a single arbitrator if the amount in demand is forty
81 thousand dollars or less or by a panel of three arbitrators if the amount

82 in demand is more than forty thousand dollars.

83 (d) Regardless of the number of policies issued, vehicles or
84 premiums shown on a policy, premiums paid, persons covered,
85 vehicles involved in an accident, or claims made, in no event shall the
86 limit of liability for uninsured and underinsured motorist coverage
87 applicable to two or more motor vehicles covered under the same or
88 separate policies be added together to determine the limit of liability
89 for such coverage available to an injured person or persons for any one
90 accident. If a person insured for uninsured and underinsured motorist
91 coverage is an occupant of a nonowned vehicle covered by a policy
92 also providing uninsured and underinsured motorist coverage, the
93 coverage of the occupied vehicle shall be primary and any coverage for
94 which such person is a named insured shall be secondary. All other
95 applicable policies shall be excess. The total amount of uninsured and
96 underinsured motorist coverage recoverable is limited to the highest
97 amount recoverable under the primary policy, the secondary policy or
98 any one of the excess policies. The amount paid under the excess
99 policies shall be apportioned in accordance with the proportion that
100 the limits of each excess policy bear to the total limits of the excess
101 policies. [If any person insured for uninsured and underinsured
102 motorist coverage is an occupant of an owned vehicle, the uninsured
103 and underinsured motorist coverage afforded by the policy covering
104 the vehicle occupied at the time of the accident shall be the only
105 uninsured and underinsured motorist coverage available.]

106 (e) For the purposes of this section, an "underinsured motor vehicle"
107 means a motor vehicle with respect to which [the sum of the limits of
108 liability] all payments made to a named insured for bodily injury
109 under all bodily injury liability bonds and insurance policies
110 applicable at the time of the accident is less than the applicable limits
111 of liability under the uninsured motorist portion of the policy against
112 which claim is made under subsection (b) of this section.

113 (f) Notwithstanding subsection (a) of section 31-284, an employee of

114 a named insured injured while occupying a covered motor vehicle in
115 the course of employment shall be covered by such insured's otherwise
116 applicable uninsured and underinsured motorist coverage.

117 (g) (1) No insurance company doing business in this state may limit
118 the time within which any suit may be brought against it or any
119 demand for arbitration on a claim may be made on the uninsured or
120 underinsured motorist provisions of an automobile liability insurance
121 policy to a period of less than three years from the date of accident,
122 provided, in the case of an underinsured motorist claim the insured
123 may toll any applicable limitation period (A) by notifying such insurer
124 prior to the expiration of the applicable limitation period, in writing, of
125 any claim which the insured may have for underinsured motorist
126 benefits, and (B) by commencing suit or demanding arbitration under
127 the terms of the policy not more than one hundred eighty days from
128 the date of exhaustion of the limits of liability under all automobile
129 bodily injury liability bonds or automobile insurance policies
130 applicable at the time of the accident by settlements or final judgments
131 after any appeals.

132 (2) Notwithstanding the provisions of subdivision (1) of this
133 subsection, in the case of an uninsured motorist claim, if the motor
134 vehicle of a tortfeasor is an uninsured motor vehicle because the
135 automobile liability insurance company of such tortfeasor becomes
136 insolvent or denies coverage, no insurance company doing business in
137 this state may limit the time within which any suit may be brought
138 against it or any demand for arbitration on a claim may be made on
139 the uninsured motorist provisions of an automobile liability insurance
140 policy to a period of less than one year from the date of receipt by the
141 insured of written notice of such insolvency of, or denial of coverage
142 by, such automobile liability insurance company.

<p>This act shall take effect as follows and shall amend the following sections:</p>
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Section 1	<i>October 1, 2013</i>	38a-336
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Statement of Purpose:

To prohibit, for an automobile liability insurance policy delivered, issued for delivery, renewed, amended or endorsed on or after October 1, 2013, any reduction of uninsured or underinsured motorist coverage limits or benefits payable for amounts paid by the insurance company to any other claimant other than the named insured or for amounts paid to the named insured for property damage by or on behalf of any tortfeasor.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]